

14CV0309

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN L. PETEREC
Plaintiff,

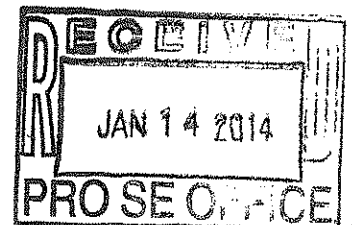
CIVIL RIGHTS
COMPLAINT

-against-

THE CITY OF NEW YORK,
THE CITY OF NEW YORK POLICE DEPT.,
and New York City Police

JURY TRIAL
DEMAND

OFFICER: MENNA, SHIELD No:
952006 (In his official
and individual capacities).



-Defendants.

JOHN L. PETEREC, PRO SE under
the penalties of Perjury Files
this Civil Rights complaint con-
taining both Federal and New York

state causes of action in
this court, the U.S. District Court
(S.D.N.Y.), pursuant to 28-U.S.C. § 1746.
Jurisdiction of this court is pro-
per under 28 U.S.C. § 1331 and
20 U.S.C. 1681 et seq. Pursuant
to U.S.C. § 1367, this U.S. District
Court (S.D.N.Y.) has ALSO supple-
mental jurisdiction over my claims
and causes of action under
the state of New York.

Plaintiff pro se seeks FORMIS
PAUPERIS status to waive filing
fee costs as I was re-
cently out of work for four
(4) months

NATURE OF ACTIONS:

Pursuant to : 42 U.S.C § 1983 for
the deprivation under the color
of state law of my rights,
privileges & immunities secured by
both the U.S. Constitution and
Constitution of (3) the state of

New York, AND laws, shall be
 liable to myself injured in
 an action at law, suit in
 equity, or other proper pro-
 ceeding for redress. ALL DEFEN-
DANTS HEREIN, acted under the
 color of STATE LAW, Pursuant
 to: 42 U.S.C. § 1983, N.Y.

Articles: 1§6 - BILL OF RIGHTS,

1§11 & 1§12 EQUAL PROTECTION to
 this state's constitution,

violation of my 1st, 4th,
5th, and 14th Amendments
to the U.S. Constitution, ALSO
CONSPIRACY to violate ALL
Amendments just listed under
Federal & state. LASTLEY,
VENUE, pursuant to : 28 U.S.C.A.
1391 (6) as ALL claims happened
within The county of New York
(Manhattan).

DEFENDANTS: CITY OF NEW YORK
AND NEW YORK CITY POLICE DEPARTMENT:

- 1) A Timely Article § 50, NOTICE OF CLAIM was timely served upon the city of New York and controller's office,

(see EXHIBIT A) → CLAIM No: 2013 P1009579

- 2) The Notice of claim details this complaint's specifics explicitly. — CLAIM No: 2013 P1009579
-

- 3) The defendant, the city of New York never requested a § 50(h) hearing, Neither did the N.Y.P.D.
- ⑥

4) THE office of the comptroller contacted me with a request of specifics regarding my claim that was presented to them by me. They NEVER re-con-
tacted me afterwards. As such, I've exhausted all administra-
tive remedies. (see EXHIBIT B)

5) 1st CAUSE OF ACTION against

N.Y. City }
N.Y. P.D. } — MONELL CLAIM. —

the city of New York has
an adopted ⑦ Policy for the

issues expressed in the NOTICE
OF CLAIM (EXHIBIT A) i.e.: STOP +
FRISK, etc.

6) 2nd Cause of Action:

False Arrest + Imprisonment in
violation of the U.S. 4th Amen-
dment, illegal search + seizure
by Police officer Menna,
violation of the U.S. 14 Amend-
ment; N.Y. Articles: 1§6, 1§11,
1§12 as he acted as
an agent to the city of
New York, under 42§1983 + state
(8) claims.

7) 3rd Cause of Action

against: NYPD + the city of N.Y., -

Malicious Prosecution under 42

u.s.A. § 1983 + N.Y. state, as

the charges via the accusa-
tory instrument was dismissed.

(see Disposition, EXHIBIT C)

8) 4th Cause of Action

against the city of New

York, + N.Y.P.D. violation of my 14

amendment to the U.S. constitution

and N.Y. Articles: 1§11 + 1§12 →
EQUAL PROTECTION, that being, the
City via it's agent P.O. Menna
treated me disparagingly as
if not held to the same
standard as tourists. Actions
like drinking ice tea in a
paper bag AND dropping accident-
ly some garbage from a
bag of such as attempting
to place in the cities

repository NEVER should have
warranted the actions taken
against me.

9) The policy of STOP &
Frisk, with no probable cause
was done so upon myself
un-constitutionally.

DEFENDANT: P.O. MENNA

10) 1st Cause of action:
False Arrest & Imprisonment:
⑪ 42 U.S.A. § 1983

in violation of illegal search
& seizure via the 4th
Amendment to the U.S. Constitution,
14th, and 1§6, 1§11 & 1§12
of the state of New York.

11) 2nd Cause of Action
against P.O. Minna: - Malicious
Prosecution, for all the
reasons previously stated herein
on page nine (9), item seven (7).

12) 3rd Cause of action against

P.O. Menna: violation of my

rights under EQUAL PROTECTION

under the 14 Amend to the U.S.

Const. + N.Y. Articles: 1§11 + 1§12

for all the reasons stated

on pages: nine (9), ten (10) +

eleven (11) of issue: eight (8).

Acting un-constitutionally, thus outside the scope of privilege

13) 4th Cause of action

against P.O. Menna: CONSPIRACY

to falsely Arrest + Imprisonment,

(13)

Maliciously Prosecute and violate
all aforementioned rights under
both the U.S. & state Constitu-
tions. → Acting un-constitutionally, see:
Ex-Parte, Young, outside the scope
of his duties

14) As such, via BOTH DEFEND-
ANTS, I've suffered emotional
pain & suffering, mental anguish,
physical pain & suffering as
personal injury, etc. & lost work.

15) Damages, → up to a jury.
However, demand of \$360,000

in exemplary and \$360,000
in compensatory against ALL
defendants herein. Punitive damages
sought here decided by jury
asking: \$500,000; defendant Menna only.

Dated: January 10th 2014
N.Y. N.Y.

Respectfully
Submitted,
John L. Peterese

John L. Peterese

244 5th Ave.

Apt #: J-292

New York, NY 10001.

REQUEST THIS COURT:
TO ORDER THE CITY
OF NEW YORK TO
DIVULGE WHEREABOUTS
OF N.Y. CITY P.O. MENNA
FOR PROPER SERVICE

Telephone: (646) 234-2734.

EXHIBIT A

ARTICLE § 50 NOTICE OF CLAIM
-against-

THE CITY OF NEW YORK
+
THE NEW YORK CITY POLICE
DEPT.

I, JOHN L. PETEREC, under the
penalty of perjury, hereby states
the following:

- 1) This hand-written Notice of Claim
conforms with the proper format
under Article § 50, and thus must

CITY OF N.Y. LAW DEPT.
OFFICE OF CORP. COUNSEL
COMMUNICATIONS UNIT
2013 APR -4 PM 2:53

be accepted as such.

2) The City of New York is a municipal corporation that sues and can be sued.

3) The New York City Police Dept. acted as policy maker & Enforcer. Thus making the City of New York liable.

4) The issue in my claim herein, is that of a consistent policy, adopted custom of the City of New York.

5) It has been substantiated,
(2)

that the city of New York
fail to prosecute members of
it's police force who break the
law and fail to discipline
those who violate both the
state of N.Y. and the United
States Constitution.

6) THIS, DESPITE the fact that
all police officers are newly
sworn in and take an oath
to uphold these constitutions
and perform their duties as
such. The city of New York
③ FAILED TO TRAIN them.

7) The Police Dept AND the individual officer named herein, acted into their duties, in their official capacities and under the color of state Law.

8) Yet, despite ALL of this, I was deprived of my state AND U.S. Constitutional rights.

9) ~~///~~ → ON THE EVENING OF JANUARY 10th, 2013, while (4)

walking West on 44th street
at just about 6: PM in
Manhattan I was stopped
and seized by N.Y. city police
officer, MENNA (No first name);
Tax Registry #: 952006, Comm-
and Code #: 0161. He demand-
ed to know where I
was going and where I
was coming from. At the
time I was drinking

(5)

a Can of ARIZONA,
Ginseng & Honey 24 ~~02~~ Ice tea
in a brown paper bag.
P.O. Mamma asked me what
was in the plastic bag I
was carrying and why the
iced tea was in a brown
paper bag? I informed him
that the reasons were to
keep the can cool. I

(6)

Also stated that the tea was pretty much consumed and I was going to in fact, throw the can into a garbage receptacle. P.O. Menna informed me that "my body language, and the way I looked and the can in a brown paper bag doesn't look good to the tourists," etc.

⑦

10) I informed him that none of that concerned me and at that point, he demanded my identification. I presented to him my driver's license and asked him why he needs it. He ordered me "to keep quite still, to keep quiet and wait there". He then went on his radio walkie-talkie. Fifteen (15)

minutes later he handed me
summons #: 4404787200 (SEE COPY
ENCLOSED). This summons/ticket
stated my offense to being:
PUBLIC CONSUMPTION OF ALCOHOL/
ADMINISTRATIVE CODE section [10-25(b)].
The complaint/Information, stating
such is/was an absolute
falsehood AND P.O. Menna offered
a false instrument for filing.

(9)

Being I was 100% innocent
of this, I took a day
off from my employment on
March 28th, 2013 to fight this
bogus summons at Midtown
Community Court, 314 West 54,
Street, New York, N.Y. 10019 at
9:30 A.M.

11) In court the accusatory
instrument only says: "I'm
going to throw this out."

(10)

There was nothing stating
for instance: a) odor of Alcohol,
b) Drinking of an alcoholic bev-
erage, etc.

12) The judge at court upon
review of the facts immedia-
tely dismissed the charges &
saw no need for a trial
as P.O. Menna's accusatory instr-
ument contradicted the Complaint/
Information on the enclosed summonse.

emotional pain & suffering, etc, etc.

16) The city of New York in doing so committed the equivalent of a false Arrest and Imprisonment.

17) The city of New York in doing so, conducted & initiated a Malicious Prosecution.

18) The city of New York is also liable for the tort of negligent-hiring and retention. ~~is~~ → This NOTICE OF CLAIM is timely via the ninety(90) (13) day Rule.

19) DUE TO ALL OF THE FORE-
GOING, I respectfully request:

\$ 360,000 in exemplary
damages,

\$ 360,000 in compensatory
damages,

Zero (0) in punitive damages.

Dated: New York, N.Y.
April 3rd, 2013

Respectfully submitted,
John L. Peterac
John L. Peterac Pro Se
244 5th Ave. Apt #:
J-292, New York, N.Y. 10001
(917) 628-7300
H

CRC-3206 (7/09)

Complaint/Information

The People of The State of New York vs.

Name (Last, First, MI)

Petersen, John E

Street Address

244 5th Ave

Appt. No.

3292

City

New York

State

NY

Zip Code

10001

ID License Number

W1055033

State

NY

Type/Class

E

Expires (mm/dd/yyyy)

01/14/15

Sex

M

Date of Birth (mm/dd/yyyy)

07/17/60

Hi

5'10"

Wt

180

Eyes

Br

Hair

Br

Plate/Reg

Reg State

Expires (mm/dd/yyyy)

Plate Type

Veh Type

Make

Year

Color

The Person Described Above is Charged as Follows:

Time 24 Hour (mm/dd/yyyy)

1:30

Date of Offense (mm/dd/yyyy)

01/10/13

County

NY

Place of Offense

Precinct

614

In Violation of

Section

125.0

Subsection

1

VTL

☐

Admin. Code

☐

Penal Law

☐

Park Rules

☐

Other

Title of Offense:

Public Consumption of Alcohol

Bronx Criminal Court - 215 E 161 Street, Bronx, NY 10451

Kings Criminal Court - 346 Broadway, New York, NY 10013

Brooklyn Community Justice Center - 88-94 Vibration Place, Brooklyn, NY 1

New York Criminal Court - 346 Broadway, New York, NY 10013

Madison Community Court - 314 W 34 Street, New York, NY 10019

Queens Criminal Court - 120-85 Queens Boulevard, Kew Gardens, NY 11415

Richmond Criminal Court - 67 Jayne Street, Staten Island, NY 10314

Defendant stated to the presence of witnesses:

I personally observed the commission of the offense charged herein. These statements made herein are punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. Affirmed under penalty of law.

Complainant's Full Name Printed

M. J. J.

Rank and Signature of Complainant

P. J. J.

Date Affirmed

01/13/13

Agency

NYPD

Tax Registry #

952006

Command Code

0161

The person described above is summoned to appear at NYC Criminal Court located at:

344 W 54th St

Simmons Part

AR6

County

NY

Date of Appearance (mm/dd/yyyy)

03/28/13

At 9:30 am

DEFENDANT'S COPY

Notice - If you do not follow these instructions a warrant may be ordered for your arrest.

To Plead Not Guilty: You must come to court at the place and time shown on the front of this summons.

To Plead Guilty: You must come to court at the place and time shown on the front of this summons. However, if you are charged with Public Consumption of Alcohol or Public Urination, you may plead guilty by mail. If you plead guilty by mail you do not have to come to court.

To Plead Guilty by Mail within 10 days of the date this summons was issued (To one of the above two charges only):

* Complete and sign the "Guilty Plea by Mail Form" below.

* Prepare a check or money order payable to NYC Criminal Court for \$25 for Public Consumption of Alcohol or \$50 for Public Urination.

* Write the summons number on the check or money order.

DO NOT SEND CASH.

* Mail the check or money order with this completed form to:

**NYC CRIMINAL COURT
P.O. BOX 555
NEW YORK, N.Y. 10013-0555**

The court record of this case will show your guilty plea to an offense that is not a crime under New York law. This guilty plea will be a public record available at the courthouse. Consult with an attorney if you have questions about this.

Guilty Plea By Mail Form

For Public Consumption of Alcohol or Public Urination Only

I plead guilty to the following charge. (Place a mark next to the charge.)

☒ **Public Consumption of Alcohol (Administrative Code section 24-225.0)** a violation not a crime as charged on this summons.

I understand that this violation is punishable by a fine of not more than \$25 or imprisonment of up to five days or both.

* I agree that the sentence imposed will be a \$25 fine.

☐ **Public Urination (Administrative Code section 24-226.0)** a violation not a crime as charged on this summons.

I understand that this violation is punishable by a fine of \$50-\$750 or imprisonment for up to ten days or both.

* I agree that the sentence imposed will be a \$50 fine.

By entering a plea of guilty to this charge I agree to the following:

* Waive my right to appear in court, the right to the assistance of a lawyer, and the right to receive a copy of the summons and return.

* I understand that a plea of guilty to the charge is equivalent to a conviction after a court trial.

* I understand that the court can refuse my guilty plea. If this occurs my payment will be returned and the court will notify me in writing when and where to come to court regarding the summons.

I plead guilty to and admit committing the offense as set forth in this summons.

Signature _____

Date _____

Check or Money Order Payable to NYC Criminal Court Must Be Enclosed.